IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 4868 OF 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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SARVODAY EDUCATION TRUST - Petitioner(s)
Versus
DISTRICT COLLECTOR, JUNAGADH & ORS. - Respondent(s)

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Appearance :
Shri R.R. Trivedi for Petitioner(s) : 1,
Shri R.C. Kodekar, Asst. Government Pleader for Respondent(s) : 1 - 2.
None for Respondent(s) : 3 - 45.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 28/03/2007

ORAL JUDGMENT

The petitioner-Sarvoday Education Trust, being aggrieved by

the order passed by the Collector and the order passed by the Additional Secretary, Revenue Department, directing demolition of the construction, which was raised by the petitioner on the Government land, is before this Court. It is the case of the petitioner that though the land belonged to the State Government, but, in any case, the land could be allotted in favour of the petitioner and the possession of the petitioner could be regularised.

2. This Court, while issuing notices to the other side, granted *ad interim* order and on 12th November, 1992, directed that the petitioner would be obliged to deposit a sum of Rs.2 lakhs with respondent No.1 within a period of three months from the date of the order.

3. On being asked that whether such amount has been deposited or not, Shri Trivedi submits that the said amount has not been deposited.

4. If the said amount is not deposited by the petitioner, then, obviously he has misused and misutilised the interim order granted by this Court and has refused to observe the order passed by this Court. The equity now does not stand in support of the petitioner.

5. After going through the records and appreciating the submissions made by the parties, I must hold that the Collector, so also the Additional Secretary, were not unjustified in holding that the land belonged to the State Government and the petitioner made encroachment upon the same. If the petitioner has no existing rights over the land, then, he cannot be allowed to continue in possession. I am also unable to hold that the principles of natural justice have been violated

and the authority has committed anything wrong in ordering demolition of the construction. The petition deserves to and is, accordingly, dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**